



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 17, 1993

Ms. Sedora Jefferson
General Counsel
Texas Department of Commerce
P.O. Box 12728
Austin, Texas 78711-2728

OR93-562

Dear Ms. Jefferson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 21545.

The Texas Department of Commerce (the "department") received an open records request for, *inter alia*, letters of recommendation regarding nominees for the 1992 selection of the State of Texas Office director in Mexico City. You seek to withhold one such letter of recommendation pursuant to section 552.111 (former section 3(a)(11)) of the Open Records Act.

Section 552.111 of the act excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain sensitive advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) (copy enclosed). The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added); *accord Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412 (Tex. App.--Austin 1992, no writ). In Open Records Decision No. 615, at 5, this office held:

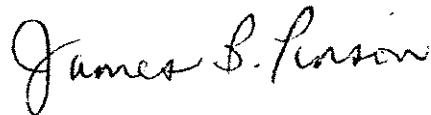
¹The 73rd Legislature has repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg. ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

[T]o come within the [section 552.111] exception, information must be related to the *policymaking* making functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters. [Emphasis in original.]

Without intending to belittle the department's efforts to select an appropriate director for the state's office in a foreign nation, we have determined, after reviewing the letter in question, that the information at issue does not rise to the level necessary to invoke the protection of section 552.111: the letter does not address policy issues before the department but rather merely seeks to alleviate some apparent misconceptions with regard to a particular applicant. Section 552.111 does not protect this type of information; accordingly, the department must release the letter in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



James B. Pinson
Assistant Attorney General
Open Government Section

JBP//rho

Ref.: ID# 21545

Enclosures: Open Records Decision No. 615

cc: Mr. Stan Jones
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(w/o enclosures)